

A Festschrift for
Emeritus Professor John A. A. Ayode

The Legislature and Governance in Nigeria

VOLUME 1



Editors | Emmanuel O. Ojo
J. Shola Omotola

The Legislature and Governance in Nigeria

A Festschrift for Emeritus Professor John A. Ayoade

VOLUME I

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CHAPTER 7

The Nigerian Senate

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INTRODUCTION

The legislature is a key institution of democratic governance, a key institution of representation and accountability in the running of the affairs of the state. That is, in fact, the very essence of its establishment. The nature of this institution, which is geared towards representing vast number of people in the society, also ensures that popular will and interests are protected. The legislature has been described as “institutional mechanisms through which societies realise representative governance on a day-to-day basis . . . the main purpose of individual legislators and the body to which they belong is to represent, that is, to re-present or mimic the varied and conflicting interests extant in society as a whole”.¹ The potency of the legislature lies in its ability to ensure that decision making powers rest with the populace and the will of the people is translated to government policies.² However, sometimes negligence on the part of the legislature in its salient statutory responsibilities may make nonsense of this essence. Claude Ake asserts that “the roles performed by legislature could facilitate the smooth functioning of the democratic systems or by default its decline

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1. Joel D. Barkan, *The Legislative Power in Emerging African Democracies*. USA: Lynne Rienner, 2009, p. 7.
 2. Claude Ake, *Democracy and Development in Africa*. Ibadan: Spectrum Books, 1996.

and ultimate collapse".³

Furthermore, the legislature plays crucial tasks in democratic governance by principally guaranteeing the accountability of the ruler to the ruled. The entrenchment of legislative procedure and practices furthers the democratisation process of the state. Thus, weighty parliament is a symbol of democracy. To achieve democratisation, the legislature is ascribed basic structural obligations which includes, rule making and legislative oversight, particularly to check on implementation of national budgets through its various oversight activities. Therefore, budget approval and supervision, powers of confirmation of executive appointments, ratification of treaties, impeachment of the Chief Executive and Deputies, rest within the precinct of the legislature. To a large extent, for democratisation to be sustained in any state, the onus lies with the legislature.

However, as much as some of these features can be said of legislatures in developed societies, it is only recently that African parliaments are gradually asserting themselves as institutions to reckon with in the process of democratic consolidation. For several decades, they were relatively inefficient and ineffective and their relationship with other organs of government, particularly the executive, has been one of master-servant relationship. This has been traced to the legislative pattern bequeathed to Africans by their colonial masters. In many situations, especially in Nigeria, more effort has been channelled towards constituency project, than legislation and oversight. This is largely ascribed to the neo-patrimonial or prebendal character of politics, a process of "patron-client" bond common among most military and civilian administrations. Thus, national legislatures in Africa have been haranguers of the executive having no soul of their own. Nevertheless, the establishment of multiparty systems and competitive politics has led to the awakening of African legislatures in the 1990s. Even though the decisiveness of the legislatures in Africa varies according to their features and structures, some have advanced beyond their subservient position and have become truly independent.

3. Adigun Agbaje, "Politics in the Legislature" *Abuja Mirror*, May 2000, p. 2.

Joel Barkan is of the view that countries such as Kenya, Uganda, South Africa and to some extent Nigeria, have had legislatures that prevailed on the executive to alter and completely withdraw unpopular proposals, fiscal policies particularly budgets, exposed corrupt undertakings of the executives and other levels of government.⁴ These are new trends in the continent, which is faced with diverse archetypes of authoritarianism.

Nigerian legislative system, shortly after independence, like its African contemporaries, was marred by a system of patronage that undermined the democratisation process. Patron-client relations were endemic in both civilian and military administrations that followed. Peter Lewis captures the nature of the Nigerian legislature, "the legislatures often appear as little more than a trading floor in which political élite bid on the distribution of spoils such as allowances, and special funds, development allocations, government appointments and opportunities for private business."⁵ At this level, the executive-legislature relationship became one of struggle and antagonism over the allotments of national wealth. This placed the executive at a vantage position, because of its hegemony over public funds to exert control and manipulate the legislature. "Legislators focused chiefly on the capture of rents, not only for personal aggrandisement, but also to build clientelist networks that might ensure political survivals. A structure of incentives shaped the recruitment of politicians and their behaviour in office, strongly reinforcing patronage politics and minimal deference to institutional rules".⁶ The executive employed the carrot and stick approach to influence decisions of the legislature. This was clearly seen in the 2006 constitutional amendment debate, where the executive pushed for tenure extension. It was alleged that the executive offered ₦50 million each to over 90 members of the parliament to influence their

4. Joel D. Barkan, op. cit. p. 2.

5. Peter M. Lewis, "Rules and Rents: Legislative Politics in Nigeria", Paper presented at the annual Meeting of the American Political Science Association. Washington DC, 3 September, 2010.

6. See Charles Dickson and J. Elendu, "Third Term: Nigeria Saved from Blood Bath," at http://www.elendureports.com/index.php?Itemid=1&id=226&option=com_content&task=view

votes and threatened to disrupt their political future, if they fail to comply.⁷ Neo-patrimonialism characterised the legislators of the second, third and to a large extent fourth republic, hampering the democratic process.

Several factors have been adduced for this form of legislative practices in Nigeria. For Lewis, the trajectory of Nigeria's political economy facilitated the patron-client relationship. That is, the oil boom of the 1970s converted Nigeria to a monoculture economy with crude oil as its main revenue resource and the federal government having discretionary powers over the control of these resources. This gave the government at the federal level more powers than the states, and a constant power tussle among ethnic groups to capture the government at the center.⁸ Therefore, perennial struggle for the control of the national wealth by the ethno-regional factions within the country led to the naissance of the hydra-headed challenge of political corruption the country is faced with today, an act that involves the diverting of public funds for personal enrichment.⁹ This is the major challenge to democratic consolidation and consequently, economic growth and development in Nigeria.

Against this backdrop, this chapter provides a status report on the Nigerian Senate since the return to civil rule in 1999. It begins by investigating the theoretical foundation of the bicameral system. It then proceeds to explore the emergence and character of the Senate as an arm of the national legislature in the first and second republics. The fourth part examines the Senate of the Fourth Republic. It seeks to identify some of the challenges facing the Senate, explains the foundation of these challenges and provides insight on how they can be addressed.

7. Peter M. Lewis, op cit.

8. See Stephen Lafenwa, "The Legislature and the Challenges of Democratic Governance In Africa: The Nigerian Case", A draft seminar paper prepared for distribution at a conference organised by the Politics and International Studies (POLIS), Centre for African Studies, University of Leeds, with assistance from EADI Working Group on Governance and Development on Democratisation in Africa: Retrospective and Future Prospects, 4-5 December, 2009.

9. As cited in Tselis G. and Money J. *Bicameralism: The Political Economy of Institutions and Decisions*. Cambridge: Cambridge University Press, 1997, 21.

THE LEGISLATURE AND BICAMERALISM

The structuring of political institutions is critical for political stability and economic development. Although it is sometimes affected by history, states have had to decide on the pattern of legislative structure to adopt and how they should operate. A basic fact behind cameral miscellany is its dependent on the unique characteristics of a particular state, such as its history, culture, demography and politics, which exerts enormous influence in the structural pattern of legislative institution. Across the world, legislatures take the forms of unicameralism or bicameralism.

The practice of bicameralism is more endemic among modern legislatures. However, it predates the 18th and 19th century British parliamentary systems of two distinct assemblies – the House of Commons and the House of Lords, which was regarded as a model political institution by Western scholars.¹⁰ Thus, bicameralism is relatively viewed as modern political institutions, because it existed in ancient Greece and in Rome. The primordial Greek city-state had various institutions that represented various classes of people. They had a bicameral-like legislative institution, “the council of wise men and the assembly” which deliberated on similar issues.¹¹ The Romans also had similar institutions, the council of elders also known as the “senate” appointed by the king and a second assembly “*Comitia Curiate*” whose responsibilities include the approval of a new king selected by the senate on the event of the death of an incumbent king, and the rights of the king over the army.¹²

Western scholars agree, however, that bicameral legislature grew in three phases, which lasted for two centuries from the King’s great council of England: “the process began with the Great Council’s retention of power of taxation. This was followed by the expansion of representation in the Great Council. The final stage was the division of these various

10. Ibid.

11. For the evolution of bicameralism, see Kurt Von Fritz, *The Theory of the Mixed Constitution in Antiquity*, Columbia, OH: Columbia University Press, 1954.

12. Ibid, p. 22.

estates into two distinctive chambers”.¹³ Hence, the two chamber legislature, which most government practice today, was borrowed from the Greeks and the Romans although these institutions have undergone a process of transformations culminating in the British-style parliamentary system.

Most states in the United States during 17th Century had unicameral legislative structure, but they later evolved to bicameralism overtime. Although the change from unicameralism to bicameralism varied among the states that make up the US, the executive usually progressed into an upper legislative chamber. By 1776, most states had established the process of ceding powers to two legislative chambers, and by 1787 bicameral legislature was adopted at the national level.¹⁴ Britain took this model of legislative structure to the colonies, although most began with a unicameral structure but they later advanced to bicameralism. Thereafter, some African states, including Nigeria threw away the Westminster-style of bicameralism practised by the United Kingdom and adopted the US model of bicameralism.

There have been debates about the essence of bicameral legislative structures in modern democracies. Scholars are of the view that the significance of bicameralism is to ensure adequate representation of the people in the government. Montesquieu stressed the fact that various classes of the people in the society have roles to play in the government, hence the need to be represented: “Executive power is best located in the hands of the monarch, who can act quickly when action is needed, while legislative power is “better ordered” by many individuals rather than a single individual. Moreover, the aristocracy would be overwhelmed if represented as individuals in a single legislative body and would fail to support such an institutional structure.”¹⁵ Montesquieu, then proposed a

13. Ibid, p. 27.

14. Tom Todd, “Unicameral or Bicameral State Legislature: The Policy Debate”, *Policy Brief*, Minnesota House of Representatives Research Department, 1999, p. 2.

15. James Buchanan and Gordon Tullock (1962), Roger D. Congleton and Birgitta Swedenborg, ‘Introduction: Rational Choice Politics and Political Institutions’, in eds, *Democratic Constitutional Design and Public Policy, Analysis and Evidence*, available at <http://rdcl.net/forthcoming/Democratic%20Constitutional%20Design%20%28preface,%20toc,%20intro%29.pdf> (accessed 15 March 2012).

two legislative assembly whereby the people and the aristocracy will be well represented.¹⁶ Similarly, James Madison argues for bicameralism particularly for its feature of adequate representation of the diverse interests within the society, therefore, guarding against ill-conceived legislation. He argues that states have interests which are different from that of the population as a whole, which should be represented.¹⁷ Representation of the diverse interests in society is very central justification for bicameralism.

Some scholars argue that simple majority rule cannot flourish without bicameralism.¹⁸ This is because bicameral structures increase the size of the majority which is required by law to adopt legislation. In other words, for a bill to become law there will have to be a balance of interests among the majorities or what has been termed "supermajority".¹⁹ Okuwa supports this assertion when he stated that "it is imperative for the states to play their unifying role as a second legislative chamber at the centre and act as a check to any kind of legislation which the representatives from any group of states may want to unfairly impose on the country".²⁰ Hence, bicameralism can be defended as a method for identifying policies with supermajority support. This was encapsulated in the words of Montesquieu. "The legislative body [is] composed of two parts; one checks the other, by the mutual privilege of refusing." A system which Levmore describes as a "stopping mechanism" which obstructs the imposition of policies by government influenced largely by simple majority. Consequently, the rationale for the adoption of bicameral legislature among modern democracies is to ensure adequate representation. The lower house is apportioned based on population, while the upper chamber is shared among the regions within a country. Some countries have equal representations in the upper house, while other modern legislatures are asymmetrical.

16. Ibid.

17. Okuwa B. "Retaining a bicameral legislature for Nigeria" Niger Delta Congress, 2001 www.nigerdeltacongress.com/articles/retaining_a_bicameral_legislature.htm.

18. Mueller, D.C., *Bicameralism and Public Policy*. Constitutional Design and Public Policy Lecture 6, P.3.

19. Ibid, p. 35.

20. Ibid.

Furthermore, scholars that ratified the praxis of bicameralism also buttressed the fact that adequate representation of divergent interests ensures political stability. Montesquieu noted that “the distinctive qualities of a senate, whose members share the characteristics of age, virtue, wisdom, and service to the community. Such a council would reinforce the stability of the polity through its sound advice”.²¹ For Congleton, the overall features of bicameralism are the factors that guarantee its stability. He submitted that bicameral systems are somewhat more stable because majority circles are fewer; levels of consensus for legislation to be adopted are higher; policy decisions are usually more informed and reflect the distress of the electorate.²² John Adams stressed that the ancient Greek system of apportionment of powers can be seen in most states, including the United States. This division of powers between the monarchy, the aristocracy and the people is very significant to achieve a stable polity. For Todd, the stability of law and consequently the political system can best be achieved in a bicameral legislature because it facilitates the balancing of rival values of responsiveness to the people, which can be easily and unwisely moved by popular sentiments.²³ The crux of a second legislative chamber is to make certain that the predilection of the lower house to acquiesce to popular pressure leading to unnecessary political and even economic variation, is dispensed with thus, guaranteeing stability.

Finally, the role of the second legislative chamber in checking the lower house from promulgating precarious legislation aids in certifying that quality legislation emanates from the legislative houses. Laws made in a bicameral legislature are agreed upon by divergent groups of legislators having a mixture of perspectives and insights. Thus, a second legislative chamber is usually in the position of discovering and correcting flaws originating from one legislative chamber or the other.²⁴ The idea behind the senate could be traced to ancient Greeks that established the council

21. Ibid, p. 25.

22. Ibid, p. 3.

23. Ibid.

24. Ibid, p. 10.

of elders, who as a result of their wisdom and experience can better sieve legislative decisions. Moreover, these were the aristocratic class, who were privileged to be educated and their skills needed for good output in legislative processes.²⁵ This is factored in the composition of the modern legislature, where the senate as the second legislative chamber is institutionally positioned, having higher educational qualification and experience, including its longer tenure of office, to ensure that laws that are promulgated do possess high value.²⁶

THE EMERGENCE OF THE SENATE IN NIGERIA

The Senate came into existence as a second chamber legislature following the adoption of bicameral legislative structure in Nigeria in 1946. The practice of bicameralism in Nigeria began at regional level in 1946 during the Richard's constitution, which granted two legislative chambers to the Northern region. The North then had the House of Assembly and House of Chiefs, while the Eastern and Western regions retained unicameralism. This changed, however, in 1951 during Macpherson's constitution, which introduced the House of Chiefs in the Western region. Bicameralism became operational at the central level in 1960 after the defects of the Lyttleton's constitution were corrected in 1957. Moreover, the Eastern region for the first time was given a bicameral structure at the same time.

At the central level, there existed the House of Senate, which consisted of 56 members and the House of Representatives, which was increased from 184 members to 320 with each constituency representing 100,000 individuals. The Northern People's Congress (NPC) formed the majority in the house. Abubakar Tafawa Balewa, who was then the Deputy Leader, was appointed as the first Prime Minister, following the House Leader, Ahmadu Bello's refusal to become the Prime Minister. Furthermore, the 1960 independence constitution also recognised bicameral legislative structure. The Senate was made up of 44 members and the House of

25. Ibid, p. 40.

26. Ibid.

Representatives 305. Under this structure, regional assemblies were given the right to legislate on matters in the residual list which, were not included in the exclusive and the concurrent list. More so, there was a provision in the 1960 constitution that when there was a conflict between regional laws and federal laws, the former shall be void to the extent of its inconsistencies.

The 1963 republican constitution also retained the bicameral structure. Senator Nwafor Orizu became the first Senate President of Nigeria. The Senate was made up of 12 members representing the regions, while 4 members represented the Federal capital Territory, which was then in Lagos, and 4 members were selected by the President of Nigeria. However, the first military coup which began in 1966 terminated the legislative experience. The partial success of the 15 January 1966 coup led to the assumption of Senator Nwafor Orizu as the Acting President, a position he held for two days before he relinquished it to Major-General J.T.U. Aguiyi-Ironsi on 17 January, 1966, the highest ranking military officer at the time.

The 1979 constitution was a complete change from the system practiced in the 1960s. It adopted an executive presidential system of government, inspired by the United States model. The choice of the presidential system was justified by the Constituent Assembly on the ground that it has a clear office of responsibility, unlike the parliamentary system where the conflict of personality and interests between the president and the prime-minister, who are of two different political parties, over the 1965 general elections, presaged the military intervention of the following year. Specifically, chapter seven of the Report of the 1977/78 Constituent Assembly stated that unity, energy and despatch inhere in the executive president. As the Assembly reasoned, "there should be a single individual in the capacity of a chief executive who can decide and act promptly when despatch is demanded, and who can impose his will when difference of opinion among cabinet members threatens to paralyse government."²⁷

27. Federal Republic of Nigeria, *Report of the Constitution Drafting Committee Containing the Draft Constitution*, Lagos: Federal Ministry of Information, Printing Division, 1979.

It further reasoned that dual executive of the parliamentary system beclouds responsibility with the principle of collective responsibility. However, the 1979 constitution operated for only four years before it was terminated by the military coup of 31 December, 1983, which saw General Muhammadu Buhari emerge as the Head of State. Nigeria was not to return to full democratic institutions until 1999.

The effort to return to democratic through an elongated transition programme failed when the results of the 12 June, 1993 presidential elections were annulled by the General Ibrahim Babangida, who had overthrown the Buhari administration in August 1985. The annulment aborted the Third Republic. Under the 1989 constitution, the presidential system of government was retained. The constitution amended certain aspects of the 1979 Constitution to reflect the new structure of the federation. The number of states had increased from 19 to 30 and there were 593 local governments. The membership of the Senate was reduced from 95 in 1979 to 91 as each state produced 3 senators, and one from the Federal Capital Territory, Abuja. The 1989 constitution changed the qualifications for becoming a member of the Senate by setting the age limit for members 30 years as against 25 years in 1979. Those who drafted the 1989 constitution also considered educational qualification as paramount before any citizen can become a member of the senate. However, due to the sensitivity of the matter, the drafters could only consider secondary school certificate or its equivalent as prerequisites for becoming a member of the Senate.

The 1989 constitution was equally short-lived due to the crisis that followed the annulment. It ended with the demolition of democratic structures following the overthrow of the interim National Government left by General Babangida who was forced to step aside on 27 August 1993 by General Sanni Abacha. Abacha, who orchestrated a constitution-making process as a part of a grand plan to transform into a civilian president died in mid 1998. General Abdulsalami became head of state. The latter organised a brief transition programme that returned the country to democratic rule on 29 May, 1999.

Under the 1999 constitution, which was markedly similar to the 1979

constitution with little amendments, Nigeria retained the presidential system of government and a bicameral legislative structure. The constitution corrected some major defects of other constitutions relating to the composition of the National Assembly, age requirements, the number of sitting and forming of quorum. The Senate was made up of 109 senators on the basis of 3 senators for each of the 36 states and 1 from the Federal Capital Territory, Abuja.

THE SENATE IN THE FOURTH REPUBLIC: THE FOURTH SENATE 1999–2003

The outcome of the parliamentary elections held in 1999 saw the Peoples Democratic Party (PDP) claiming 59 seats in the senate, while the All Peoples Party (APP) won 29 seats and the Alliance for Democracy (AD) won 20 senatorial seats. One seat was, however, vacant or undeclared.²⁸ The 4th National Assembly was subsequently inaugurated on the 29 May, 1999 at the start of the Nigerian Fourth Republic. The Senate was made up of three senators from each of the 36 states, plus one Senator for the Federal Capital Territory, Abuja.

The fourth Senate of the federal republic was characterised by leadership struggles and antagonistic relationships between the Senate and the Presidency. The 4th Senate spent much of its strength fighting for independence. Anyanwu note that the first manifestation of this struggle was the choice of leadership. Prior to the inauguration of the Assembly, senators of the ruling PDP held a shadow election in which they conceded the position of the Senate President to Chuba Okadigbo. However, the coalitions of other interests cornered the votes in favour of Evan(s) Ewerem.²⁹ Thus, Chief Enwerem was elected the first president of the Senate in the Fourth Republic. However, he was impeached six months later (November 1999) over charges of falsification of age and forgery

28. African Elections Database, <http://africanelections.tripod.com/ng.html>

29. Anyanwu C. *The Lawmakers, Federal Republic of Nigeria, 2003-2007*, 4th edition statecraft International ltd. 2003, p. 47.

of academic qualifications in his resume, as well as gross incompetence. After the impeachment of Enwerem, the stage was set for the emergence of Chuba Okadigbo as the 2nd president of the 4th Senate. Chuba Okadigbo's leadership style was dictatorial and arrogant. Thus it was resented by his colleagues in the senate, leading to his impeachment alongside his deputy eleven months later on allegations of corruptions. He was replaced by Anyim Pius Anyim, who became the 3rd Senate President of Fourth Republic. Although he faced many challenges from the executive, he was able to retain his leadership position till the end of the 4th Senate.

The relationship between the presidency and the legislature has always been one of dominance and antagonism. This is the result of the uneven development of the two institutions as a result of several interruption of democratic rule by the military. Under the military, the legislature is often abolished, leaving the legislature largely underdeveloped relative to the executive. The presidential system introduced in 1979 was among other things geared toward the establishment of a strong legislature that will serve as a watch dog on the executive. The 1979 constitution empowered the legislature to impeach the president on the grounds of gross misconduct and the legislature was also to decide what constitute gross misconduct.³⁰ The 1999 Constitution followed the 1979 Constitution in two areas: "money bills and the impeachment of the president".³¹ This translated into persistent conflict of interest between President Olusegun Obasanjo and the legislature, specifically the Senate. The frosty relationship between the Senate and the presidency began on 2nd July 1999 after President Olusegun Obasanjo repealed Decree 25 of 1994 establishing the Petroleum Trust Fund (PTF). The Senate, however, nullified the decision of the president through a resolution passed on 2 July, 1999 claiming that the executive acted unilaterally thereby undermining the powers of the legislature. After much clarification by stakeholders that

30. E. 'Remi Aiyede, 'Legislature-Executive Relations in Nigeria's Emergent Presidential Democracy', *UNILAG Journal of Politics*, Vol. 2, No. 1, 2005, pp. 64-87.

31. *Ibid*, p. 146.

the President acted in conformity with the constitution, the senate reversed its order.

Another area which put the President and the Senate at loggerheads was in budget implementation. This was attributed to the assertiveness of the presidency in policy making and implementation. Anyanwu reported that as a result of improper budget implementation in the first one year, the Senate gave directives to all Senate Committees to invoke its powers of investigation and assess the level of implementation of constituency projects. The various committees reported that the performance was very low and there were many irregularities in the management of funds. This discovery prompted the Senate to invite the Minister of State for Finance, Jubril Martins-Kuye, Accountant-General, Auditor-General, Governor of the Central Bank of Nigerian (CBN) and top officials of the Nigerian National Petroleum Corporation (NNPC) for questioning, in order to ascertain the extent to which the executive performed in managing the economy.³² The presidency was accused of selectively implementing the budget. Consequently, the Senate agreed not to deliberate on the 2002 budget pending when the President issued detailed report on the implementation of the 2001 Supplementary Appropriation Act.³³ Other issues which further aggravated the frosty relationship between the President and the Senate was the provisions of s. 58 (4), 58 (5), and 15 of the Electoral Act 2002, Power sharing , Local Government creation, resource control and revenue allocation, onshore-offshore dichotomy bill. Moreover, The Corrupt Practices and other Related Offences Bill of 2003 and the Niger Delta Development Commission Bill also involved fundamental disagreements between the Senate and the President. These bills, which were vetoed by the president, were made laws when the Senate and the House of Representatives override the veto of the president with two-thirds majority vote, a month after they was sent to the President for assent. The culmination of the hostile relationship between the Senate and the President over these matters and other issues led to the move to

32. Ibid, p. 149.

33. Ibid.

impeach President Olusegun Obasanjo on the 18th August 2002 by the National Assembly spearheaded by the House of Representatives.³⁴

In general, the 4th Senate was able to introduced 258 bills out of which 65 were passed. The relatively poor performance of the Fourth Republic Senate was attributed to the challenges of leadership and the hostile relationship between it and the Executive.

THE FIFTH SENATE 2003-2007

The Fifth Senate was inaugurated in May 2003 following the 2003 general elections. In the National Assembly elections, the PDP won 76 seats in the Senate, while the All Nigeria's Peoples Party (ANPP) won 27 seats and the AD won 6.³⁵ Chief Adolphus Wabara of the PDP emerged as the Senate president.

From June 2003 to May 2005, the presidency and the Senate enjoyed a cordial relationship, as the Senate differed to the President. The opposition parties could not challenge any of the policies of the President because the president' party, the PDP, controlled over two-thirds majority in the Senate. Furthermore, this period witnessed the introduction of major reform policies, some of which had adverse effect on the populace, leading to popular outcry. Indeed, the Obasanjo administration articulated a comprehensive development reform agenda, the National Economic Empowerment and Development Strategy (NEEDS). NEEDS focused on four main areas: improving the macroeconomic environment, pursuing structural reforms, strengthening public expenditure management, and implementing institutional and governance reforms. Public sector reform consists of seven main goals. These are to right-size the sector and eliminate ghost workers, restore the professionalism of the civil service,

34. For details on this particular impeachment crisis, see J. Shola Omotola, *Public Attitudes Towards Impeachment Threats in Nigeria's Fourth Republic*, unpublished M.Sc. thesis, Department of Political Science, University of Ibadan, Ibadan, Nigeria, August 2003.

35. C. Anyanwu, *The Lawmakers. Federal Republic of Nigeria, 2003-2007*, Fifth Edition Startcraft International Ltd, 2007, p. 54.

rationalise, restructure and strengthen institutions, privatise and liberalise the sector, tackle corruption and improve transparency in government accounts, reduce waste and improve efficiency of government expenditures, and enhance economic coordination.³⁶

As the adverse consequences of some of the reforms began to afflict ordinary people, the Nigeria Labour Congress (NLC) catalysed and galvanised a series of public protests against price hikes in petroleum products as a result of the government's policy of deregulating the downstream sector of the petroleum industry. Between 1999 and 2004 there were six protracted general strikes. By 2004 the strikes and opposition to elements of the Obasanjo reforms has become so worrisome that the government detained the NLC president.³⁷

The affable relationship between the presidency and the Senate soon hit the rocks in May 2005, when the Presidency, through the Economic and Financial Crime Commission (EFCC) alleged that the Senate President and some Senators were involved in a bribery scandal. The Senators saw this as a move by the President to dent the image of the Senate before the Nigerian public and they were more perturbed that the President was using the EFCC, a supposedly independent investigative agency, to witch hunt some members of the Senate. Consequently, the presidency pressured the Senate to remove the Senate President. Following the resignation of Senator Wabara, the Senate resolved to assert its independence. It ensured that the executive did not exercise influence over the election of the next Senate president. Consensual agreement led to the election of Ken Nnamani, who was a first time Senator, from Enugu state as the Senate President.

One major issue worthy of note in the Fifth Senate was the constitutional amendment bill of 2006. The bill proposed 116 amendments, but s.137

36. Federal Republic of Nigeria, *Nigeria: National Economic Empowerment and Development Strategy (NEEDS)*. Abuja: NEEDS Secretariat and National Orientation Agency, 2004.

37. E. Remi Aiyede, "From Corporatist Power to Abjection: Labour and State Control in Nigeria", in Wale Adebawo and Ebenezer Obadare (eds.), *Encountering the Nigerian State*, New York: Palgrave Macmillan, 2010, 177-197.

ss. (1b) raised attracted public opprobrium. The proposed bill sought to increase the tenure of office of the president from two terms of four years each to three terms of four years per term. Similarly, the proposed bill sought to amend s.182 ss.13 of the 1999 Constitution by granting state Governors the right to three terms of four years each. The bill also proposed to recognise the six geo-political zones as basis for national planning and power sharing; to increase the number of states and local government and also to enhance local government autonomy; make vice president and deputy governor not to be automatic successors to the office of the president and governor respectively; removal of the immunity clause for the president, vice president, governor and deputy Governor, among others.

The bill which sought to increase the term of office of the president and governors caught more attention, as the senators accused the President and Governors of a gang up to elongate their tenure. The senate unanimously rejected the bills even though some of the bill proposed would have been beneficial to the country. However, Senators of the fifth Assembly agreed that the killing of the 2006 amendment bill was their greatest achievement. Senator Adolphous Wabara reiterated this when he stated that, ensuring that the proposed amendment was not passed was “our most significant contribution . . . That was our moment in the sun. That was the moment when the hopes and future of a people and a country rested on a thread because of personal ambition . . . even if we did nothing else . . . we had the courage to do the right thing”.³⁸ Senate President Ken Nnamani, while remaining publicly neutral on the issue, resisted efforts by the “third term” supporters to manipulate the Assembly’s procedures and intimidated the senators on the need not to accept the measures.

The Fifth Senate considered a total of 392 bills out of which 138 were Executive bills, while 227 were private member bills. Of the 392 bills only about 132 bills were passed, 83 executive bills and 49 private member’s bills. This was an improvement when compared to the bills

38. C. Anyanwu, *op. cit.*, p. 15.

passed by the Fourth Senate. Furthermore, the Fifth Senate was credited with achievements in other respects. First, the Senators were able to carry out their statutory responsibility of oversight by improved committee work. They took control of the national budget; improved public hearings; paid off their debt of about ₦349 million and further ensured fiscal responsibility. The reforming of their internal operations enabled them to pass laws on public procurement and fiscal responsibility. Legislators and analysts observed that the overall quality of Assembly members in both the Senate and the House had improved, as more educated and more experienced people emerged.³⁹

THE SIXTH SENATE, 2007-2011

The result of the 2007 parliamentary elections showed that the PDP won a total of 87 seats in the Senate, the ANPP 14, Action Congress (AC) 6, while the Progressive People's Party (PPA) and Accord Party won 1 seat each.⁴⁰ The sixth Senate was later inaugurated on the 6th of June 2007 with Senator David Mark emerging as the President. David Mark has been a Senator representing Benue State for three consecutive terms. On election as President of the Senate, David Mark became the ninth Senate President since the First Republic. David Mark retained the office of the senate presidency throughout the Sixth Legislative Assembly. There was basically no leadership tussle among members of the Senate. Senator David Mark was able to hold on to power throughout his tenure. This can be attributed to the respect he had among his colleagues, unlike the Fourth and Fifth Senates, which experienced leadership crisis perpetuated largely by the executive. Moreover, under the administration of President Umaru Musa Yar'Adua, there was, probably for the first time, smooth relationship between the Senate and the president. However, the weakness of the executive arm, due largely to Yar'Adua's illness, emboldened the

39. Ibid.

40. Dayo Aiyetan, Good luck to Jonathan: Nigeria's acting president will need both of good luck and guts to perform effectively in that office with the enormous challenges ahead, *TELL*, 22 February, 2010, pp. 17-21.

Senate. The number and scope of committees expanded. There were 54 committees in the Senate. The Sixth Senate was noted for its probes into activities of government ministries of past administrations. These investigations yielded little or no results, thus attracting criticisms from various quarters of the Nigerian public.

First among the probes was the transport ministry, initiated by a motion moved by Senator Ayogu Eze, who called for investigation of the ministry due to the deplorable nature of the Nigerian roads despite the huge funds, about ₦1 trillion that government had pumped into the transport sector. The probe panel was headed by Senator Heineken Lokpobiri. The panel summoned Chief Tony Anenih and Adeseye Ogunlewe who were transport ministers during the period, but were alleged to have collected ₦300 billion for road construction with nothing to show for it. The probe, however, went down after gathering much dust. Next was the Federal Capital Territory probe under Nasir el-Rufai. Senator Abubakar Sodangi, who was the Chairman, Senate Committee on the FCT, was in charge of the probe from 1999 to 2007. The probe became important following public outcry that the former Minister of the FCT was ruthless and demolished over 75,000 houses in the FCT rendering many Nigerians homeless, and stepping on the toes of some bigwigs in government. However, the former Minister refuted the allegations saying that he followed the dictates of the FCT building planning regulation, claiming that all the houses demolished violated the law. At the end of the hearing, the chairman recommended that the former FCT minister should be ban from public office.

Next in the line was the aviation sector probe, which was headed by the chairman of the Senate Committee on Aviation, Senator Anyim Ude. It was alleged that a ₦19.5 billion safe tower project was misappropriated. Two former ministers, Professor Babalola Borishade and Femi Fani-Kayode were accused of fraud during the committee investigation. Another probe worthy of mentioning was the agricultural sector probe conducted by an ad hoc committee led by Senator Idris Umar. The Committee was charged to examine the causes of food shortage in Nigeria and the ₦300 billion spent in the sector for the procurement and distribution of fertiliser.

However, after many months of deliberation and traversing many parts of the country, the Senate could not examine the committee report before the end of the Senate session.

Despite these shortcomings, the Sixth Senate was credited for saving the country from an imminent crisis through the “Doctrine of Necessity” motion it passed, which helped to clear the way for Vice President Goodluck Jonathan to assume responsibility as Acting President against the background of the health challenge of President Umaru Musa Yar’Adua.⁴¹ President Yar’Adua was away from the country to Saudi Arabia for more than 80 days without giving due notice to the National Assembly. At a time, unknown to the vice-president, he was subsequently ferried into the country under the cover of night and taken, with military support, from the airport to the presidential villa. This created a major stir in the polity until the Senate, submitting to pressure from civil society and the belated shift of allegiance and support of the Governors’ Forum, empowered the vice-president to act as president, drawing on what it called the ‘Doctrine of Necessity’.

The constitution had made elaborate provisions for the process of handing over to the vice president or transforming the vice president into an acting president in a situation where the president proceeds on vacation, becomes incapacitated by ill-health or dies in office. The constitution expects the president to write to the National Assembly conveying the transfer of power to the vice president to the National Assembly during his absence. Where the president is unable to do so in the case of medical incapacity, the Federal Executive Council was to catalyse a process where a select number of medical practitioners, including the president’s personal physician, determine the state of health of the president and where he was satisfied unfit to function, conveys the situation to the National Assembly to enable the vice president become acting president. The constitution, however, failed to create an appropriate context for the

41. For an insight into Yar’Adua’s health crisis, see ‘A Cabalised Regime: Neopatrimonialism, President Yar’Adua’s Health Crisis and Nigeria’s Democracy’, *CEU Political Science Journal*, Vol. 6 (2), 2011, pp. 222-253.

speedy achievement of transforming the vice to president where the president failed to write to the National Assembly. This is because it empowered the Federal Executive Council to act in a situation where the president is incapacitated and fails to write to the National Assembly to enable the vice president to act as president during a long absence from office as Nigeria experienced in this case. In the particular instance, the Federal Executive Council failed to act as required by the constitution. The doctrine of necessity was used by the Senate to arrest the situation. The Sixth Assembly eventually amended the constitution to enable the vice-president to be sworn-in as acting president after 21 days of the president's absence without notifying the National Assembly. This action of the Sixth Senate has been the most significant legislative action of the federal republic.⁴²

The Sixth Senate is also credited for altering certain sections of the 1999 constitution and for passing the 12 years old Freedom of Information Bill which originated from the House of Representatives and the electoral act 2010 which led to the relative success of the 2011 general election. More so, the Sixth Senate is credited with timely passage of the Asset Management Corporation of Nigeria Bill, charged with the responsibility of managing bank toxic assets as part of the reforms to arrest the rots in the banking sector. Lastly the Sixth senate passed the Sovereign Wealth bill, tobacco control bill and hydroelectric power commission bills. The sixth Senate received a total of 500 bills out of which 89 were passed while 118 motions were moved one of which was the "Doctrine of Necessity".

CONCLUSION

This chapter discusses the Nigerian Senate, its emergence and its roles of ensuring democratic consolidation of the Nigerian polity. In the last decade, the Senate has re-emerged as a formidable force in the political development of the Nigerian state. It has risen against unpopular policies

42. Ibid.

emanating from the executive, and performing the statutory checks. Among the success stories of the Nigerian Senate under the Fourth Republic was the repudiation of an executive bill which sought to extend the tenure of office of the president and governors. Sensing that it was a conspiracy between then President Olusegun Obasanjo and the 36 state governors to elongate their tenure of office, the Senate rose to kill the bill.

Another remarkable move of the Senate that saved the country from imminent collapse was the doctrine of necessity motion. This motion paved the way for the vice president to assume power as acting president, against the background of the long absence of the president due to illness. The Senate has also been credited for its numerous probes in the activities of government agencies, even though these investigations did not yield the much needed result. In general, the Senate created a platform where the activities of government agencies can be publicly scrutinised. However, despite these laudable achievements of the Senate, more efforts need to be done to advance the integrity of the Senate. The Senate, like the House of Representative, is viewed largely as parasites on the Nigerian economy because of the enormous emolument that they receive. Rent-seeking and clientelism have made the Senate to be increasingly vulnerable to the ploys of the executive. Therefore, to ensure democratic consolidation in Nigerian, the Senate must rise above these challenges in the spirit of nationalism and patriotism.